

REMARKS

Formal Matters

Claims 1-19, 29 and 34-35 are pending after entry of the amendments set forth herein.

Claims 5, 15 and 19 are withdrawn from current consideration.

Claims 1-4, 6-14, 16-18 and 29 were examined. Claims 1-4, 6-14, 16-18 and 29 were rejected.

Applicants respectfully request reconsideration of the application in view of the amendments and remarks made herein.

No new matter has been added.

The Office Action

Claims Rejected Under 35 U.S.C. Section 103(a) (Ravkin et al. in view of Henrichs)

In the Official Action of April 17, 2008, claims 1-3, 7, 17-18 and 29 were rejected under 35 U.S.C. Section 103(a) as being unpatentable over Ravkin et al., U.S. Patent No. 6,908,737 in view of Henrichs, U.S. Patent Publication No. 2003/0161245.

The Examiner asserted, inter alia, that Ravkin et al. discloses a microparticle made of polymeric material and having a pattern encoded on at least one portion having a digital data layer, wherein the digital data layer cooperates with a transducing layer (carrier material) of the microbead particle to produce a detectable signal. The Examiner referred to column 10, lines 1-65 of Ravkin et al. as support for these assertions. Applicants respectfully traverse. Nowhere in column 10, lines 1-65, or anywhere else in Ravkin et al. does Ravkin et al. disclose that a transducing layer is used in the product of Ravkin et al. It is respectfully submitted that it is pure speculation on the Examiner's part to label the actual polymeric body (carrier material) of the microbead as a transducing layer. Ravkin et al. does not disclose or suggest that the microbead body cooperates with the code on the carrier to produce a detectable signal. Further, claim 1 recites a particle made of polymeric material, a digital data layer, and a transducing layer. It appears that the Examiner is attempting to read both the particle made of polymeric material and the transducing layer on the carrier material. It is respectfully submitted that it is improper to attempt to meet to distinct elements with a single element in the reference.

Further, it is respectfully submitted that Ravkin et al. clearly does not disclose or suggest producing a detectable binary data signal. On the contrary, Ravkin et al. teaches away from producing such a signal. For example, at column 10, lines 7-11, Ravkin et al. discloses that the coding material can be made in a wide array of colors, optical characteristics and combination of colors and optical characteristics, and that consequently, greater information content is achieved with fewer coding positions as compared to traditional binary bar code formats. Clearly Ravkin et al. teaches away from producing a binary data signal.

The Examiner admitted that Ravkin et al. fails to teach a microbead particle system wherein the transducing layer is tellurium containing films and the transducing layer produces a detectable binary data. Applicants would further add that Ravkin et al. fails to teach or suggest a transducing layer whatsoever. Still further, as noted above, Ravkin et al. teaches away from producing a binary data signal.

The Examiner asserted that it would have been obvious to employ the binary coding method of Henrichs which includes use of tellurium-containing films, in the microbead particle system of Ravkin et al. Applicants strongly traverse. As noted above, Ravkin et al. discloses a purported advantage of the system of Ravkin et al. in that it allows a more compact code than a binary code. Accordingly, Ravkin et al. teaches away from the combination proposed by the Examiner.

Further, the Examiner indicated that the “transducing layer” of Ravkin et al. is the polymeric body (carrier material) of the bead. Logically then, the modification proposed by the Examiner would have been to replace the polymeric body of Ravkin et al. and make it with tellurium. There is no suggestion that this would be successful, as the density may be too high for the beads to remain distributed properly during carrier flow. Still further, the tellurium component would not be a film in this case.

Accordingly, in view of the above remarks, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 1-3, 7, 17-18 and 29 under 35 U.S.C. Section 103(a) as being unpatentable over Ravkin et al., U.S. Patent No. 6,908,737 in view of Henrichs, U.S. Patent Publication No. 2003/0161245, as being clearly inappropriate.

Claims Rejected Under 35 U.S.C. Section 103(a) (Ravkin et al. in view of Henrichs and Kolesar, Jr.)

Claims 4 and 6 were rejected under 35 U.S.C. Section 103(a) as being unpatentable over Ravkin

et al., U.S. Patent No. 6,908,737 in view of Henrichs, U.S. Patent Publication No. 2003/0161245, as applied to claim 1 above, and further in view of Kolesar, Jr. et al. (sic, Kolesar, Jr.), U.S. Patent No. 4,906,440.

The Examiner asserted that Ravkin et al. teaches a dielectric material (column 15, lines 33-38) on polymeric material. However, column 15, lines 33-38 refers to an embodiment in which a silicon nitride or metal identification film 205 is deposited onto the patterned polysilicon film 204 in order to provide visual contrast to make the identification marks. There is no transducing layer, nor is there any suggestion of producing a detectable binary data signal. Accordingly, it is respectfully submitted that Kolesar, Jr. fails to make up for the deficiencies of Ravkin et al. And Henrichs in meeting the recitations of claim 1.

Claim 6 depends from claim 4 and it is respectfully submitted that claim 6 is therefore allowable for at least the same reasons provided above with regard to claims 4 and 1.

In view of the above remarks, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 4 and 6 under 35 U.S.C. Section 103(a) as being unpatentable over Ravkin et al., U.S. Patent No. 6,908,737 in view of Henrichs, U.S. Patent Publication No. 2003/0161245, as applied to claim 1 above, and further in view of Kolesar, Jr. et al. (sic, Kolesar, Jr.), U.S. Patent No. 4,906,440, as being inappropriate.

Claims Rejected Under 35 U.S.C. Section 103(a) (Ravkin et al. in view of Henrichs and Tompkin et al.)

Claims 8-14 and 16 were rejected under 35 U.S.C. Section 103(a) as being unpatentable over Ravkin et al., U.S. Patent No. 6,908,737 in view of Henrichs, U.S. Patent Publication No. 2003/0161245, as applied to claims 1 and 7 above, and further in view of Tompkin et al., U.S. Patent No. 5,754,520.

It is respectfully submitted that claims 8-14 and 16 depend ultimately from claim 1, and are allowable over this combination of references for at least the same reasons submitted for the allowability of claim 1 over Ravkin et al. and Henrichs above, since Tompkin et al. does nothing to cure the deficiencies of Ravkin et al. and Henrichs in meeting all of the recitations of claim 1.

Accordingly, in view of the above amendments and remarks, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 8-14 and 16 under 35 U.S.C. Section 103(a) as being unpatentable over Ravkin et al., U.S. Patent No. 6,908,737 in view of Henrichs, U.S.

Patent Publication No. 2003/0161245, as applied to claims 1 and 7 above, and further in view of Tompkin et al., U.S. Patent No. 5,754,520, as being inappropriate.

New Claims

New claims 34 and 35 have been submitted above to depend from claims 1 and 29, respectively. Support for these claims can be found, for example, at Fig. 2X, the description thereof in the specification, and throughout the specification and drawings. The Examiner is respectfully requested to indicate the allowance of claims 34 and 35 in the next Official Action.

Conclusion

Applicants submit that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, please telephone the undersigned at 408-736-3554.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-1078, order number 10030589-1.

Respectfully submitted,

Date: 7/17/08

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